

Ordinance No:  
Subdivision Regulation Amendment: 05-01  
Concerning: MPDUs – finding of financial  
infeasibility  
Draft No. & Date: 2 – 3/16/05  
Introduced: March 22, 2005  
Public Hearing:  
Adopted:  
Effective: April 1, 2005

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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By: Councilmember Silverman

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**AN AMENDMENT** to the Montgomery County Code for the purpose of:

- Clarifying the process for a finding of financial infeasibility with respect to moderately priced dwelling units in certain subdivisions.

By amending the following section of the Montgomery County Subdivision Regulations, Chapter 50 of the County Code:

Section 50-35            “Preliminary subdivision plan — Approval procedure”

**EXPLANATION:** *Boldface* indicates a heading or a defined term.  
*Underlining* indicates text that is added to existing laws by the original text amendment.  
*[Single boldface brackets]* indicate text that is deleted from existing law by the original text amendment.  
*Double underlining* indicates text that is added to the text amendment by amendment.  
*[[Double boldface brackets]]* indicate text that is deleted from the text amendment by amendment.  
*\* \* \** indicates existing law unaffected by the text amendment.

**ORDINANCE**

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*

1           **Sec. 1. Chapter 50 is amended as follows:**

2       **50-35.      Preliminary subdivision plan — Approval procedure.**

3                          \*            \*            \*

4           (l) *Relation to Master Plan.* In determining the acceptability of a  
5           preliminary plan submitted under this Chapter, the Planning Board  
6           must consider the applicable master plan, sector plan or urban renewal  
7           plan. A preliminary plan must substantially conform to the applicable  
8           master plan, sector plan or urban renewal plan, including maps and  
9           text, unless the Planning Board finds that events have occurred to  
10           render the relevant master plan, sector plan or urban renewal plan  
11           recommendation no longer appropriate.

12           However, to [accommodate] permit the construction of all  
13           MPDUs required under Chapter 25A, including any bonus density  
14           units, on-site, a preliminary plan may exceed, in proportion to the  
15           MPDUs [provided under Chapter 25A] that would be built on site,  
16           including any bonus density units, any residential density or building  
17           height limit established in a master plan or sector plan if a majority of  
18           the Director of the Department of Housing and Community Affairs,  
19           the Executive Director of the Housing [Opportunity] Opportunities  
20           Commission, and the [Chair of the] Director of Park and Planning  
21           [Board], or their respective designees, find that [construction of] a  
22           development that includes all required MPDUs on site, including any  
23           bonus density units, would not be financially feasible within the  
24           constraints of any applicable density or height limit.

25           If a finding of MPDU financial infeasibility is made, the  
26           Planning Board must [determine] decide which if any of the following  
27           measures authorized [under] by Chapter 59 or Chapter 50 should be

28                   approved to [accomplish] assure the construction of [the] all required  
29                   MPDUs on site:  
30                   (1)     exceeding a master plan or sector plan height limit,  
31                   (2)     exceeding a master plan or sector plan residential density limit,  
32                   or  
33                   (3)     locating public use space off-site.

34                   **Sec. 2. Effective date.** This ordinance takes effect as of April 1, 2005.

35                   This is a correct copy of Council action.

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38                   Elda M. Dodson, CMC  
39                   Acting Clerk of the Council

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41                   Approved

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44                   Douglas M. Duncan, County Executive

                         Date